

# **The Surface-Mined Land Conservation and Reclamation Act**

## **(225 ILCS 715/1)**

**Sec. 1. Short title.** This Act may be cited as the Surface-Mined Land Conservation and Reclamation Act.

## **(225 ILCS 715/2)**

**Sec. 2. Statement of policy.** It is declared to be the policy of this State to provide for conservation and reclamation of lands affected by surface mining in order to restore them to optimum future productive use and to provide for their return to productive use including but not limited to: the planting of forests; the seeding of grasses and legumes for grazing purposes; the planting of crops for harvest; the enhancement of wildlife and aquatic resources; the establishment of recreational, residential and industrial sites; and for the conservation, development, management, and appropriate use of all the natural resources of such areas for compatible multiple purposes, to aid in maintaining or improving the tax base; and protecting the health, safety and general welfare of the people, the natural beauty and aesthetic values, and enhancement of the environment in the affected areas of the State; to prevent erosion, stream pollution, water, air and land pollution and other injurious effects to persons, property, wildlife and natural resources; and to assure that conservation and reclamation plans for all surface mining activity are available for the prior consideration of county governments within whose jurisdiction such lands will be affected by surface mining and to permit participation and authorize cooperation and coordination with the federal government in initial regulatory programs under the federal Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, Title 30, USC Sec. 1201 et seq.

The issuance of a permit under this Act to engage in the surface mining of any resources other than fossil fuels is not intended to relieve the permittee from its duty to comply with other applicable state and local law regulating the commencement, location and operation of surface mining facilities.

## **(225 ILCS 715/3)**

**Sec. 3. Definitions.** Wherever used or referred to in this Act, unless a different meaning clearly appears from the context:

(a) "Reclamation" means conditioning areas affected by surface mining to achieve the purposes of this Act.

(b) "Overburden" means all of the earth and other materials which lie above natural deposits of coal, clay, stone, sand, gravel, or other minerals, and also means such earth and other materials disturbed from their natural state in the process of surface mining.

(c) "Surface mining" means the mining of any minerals by removing the overburden lying above natural deposits thereof, and mining directly from the natural deposits thereby exposed or the deposition of overburden therefrom.

(d) "Operator" means any person, firm, partnership or corporation engaged in and controlling a surface mining operation, and includes political subdivisions and instrumentalities of the State of Illinois.

- (e) "Pit" means a tract of land, from which overburden has been or is being removed for the purpose of surface mining.
- (f) "Final cut" means the last pit created in a surface-mined area.
- (g) "High wall" means that side of the pit adjacent to unmined land.
- (h) "Affected land" means the area of land from which overburden is removed for surface mining or upon which overburden or refuse is deposited. It also means any area of land utilized for drainage ditches and haulage roads at surface coal mines.
- (i) "Refuse" means all waste materials directly connected with the cleaning and preparation of minerals mined by surface mining and discarded equipment and machinery.
- (j) "Slurry" means that portion of refuse separated from the mineral in the cleaning process, consisting of fines and clays in the preparation plant effluent, and which is readily pumpable.
- (k) "Gob" means that portion of refuse consisting of waste coal, rock, pyrites, slate, or other unmerchantable material of relatively large size which is separated from the mineral in the cleaning process.
- (l) "Acid forming materials" means those materials capable of producing toxic conditions when exposed.
- (m) "Toxic conditions" means any conditions that will not support higher forms of plant or animal life in any place in connection with or as a result of the completion of surface mining.
- (n) "Ridge" means a lengthened elevation of overburden created in the surface mining process.
- (o) "Peak" means a projecting point of overburden created in the surface mining process.
- (p) "Department" means Department of Natural Resources or such department, bureau, or commission as may lawfully succeed to the powers and duties of such Department.
- (q) "Director" means the Director of the Department of Natural Resources or such officer, bureau or commission as may lawfully succeed to the powers and duties of such Director.
- (r) "Darkened surface soil" means mineral horizons formed at or adjacent to the surface of the soil which are higher in organic matter content and visibly darker in color than the immediately underlying horizons.
- (s) "Aggregate mining industry" means producers, by surface mining method, of all minerals other than coal, including sand, gravel, silica sand, shale, clay, limestone and any other mineral which may be so mined.

**(225 ILCS 715/4)**

**Sec. 4. Necessity of permit.** It shall be unlawful for any operator to engage in surface mining in an area where the overburden shall exceed 10 feet in depth or where the operation will affect more than 10 acres during the permit year without first obtaining from the Department a permit so to do, in such form as is hereinafter provided.

**(225 ILCS 715/4.1)**

**Sec. 4.1. (Repealed).**

**(225 ILCS 715/5)**

**Sec. 5. Application for permit; bond; fee; permit.**

(a) Application for a permit shall be made upon a form furnished by the Department, which form shall contain a description of the tract or tracts of land and the estimated number of acres thereof to be affected by surface mining by the applicant to the tenth succeeding June 30, which description shall include the section, township, range, and county in which the land is located and shall otherwise describe the land with sufficient certainty so that it may be located and distinguished from other lands, and a statement that the applicant has the right and power by legal estate owned to mine by surface mining and to reclaim the land so described. Such application shall be accompanied by: (i) a bond or security meeting the requirements of Section 8 of this Act; and (ii) a fee of \$150 for every acre and fraction of an acre of land to be permitted.

(b) An operator desiring to have a permit amended to cover additional land may file an amended application with the Department with such additional fee and bond or security as may be required under the provisions of this Act. Such amendment shall comply with all requirements of this Act.

(c) An operator may withdraw any land covered by a permit, excepting affected land, by notifying the Department thereof, in which case the penalty of the bond or security filed by such operator pursuant to the provisions of this Act shall be reduced proportionately.

(d) (Blank).

(e) Every application, and every amendment to an application, submitted under this Act shall contain the following, except that the Director may waive the requirements of this subsection (e) for amendments if the affected acreage is similar in nature to the acreage stated in the permit to be amended:

1. a statement of the ownership of the land and of the minerals to be mined;
2. the minerals to be mined;
3. the character and composition of the vegetation and wildlife on lands to be affected;
4. the current and past uses to which the lands to be affected have been put;

5. the current assessed valuation of the lands to be affected and the assessed valuation shown by the two quadrennial assessments next preceding the currently effective assessment;
6. the nature, depth and proposed disposition of the overburden;
7. the estimated depth to which the mineral deposit will be mined;
8. the location of existing roads, and anticipated access and haulage roads planned to be used or constructed in conducting surface mining;
9. the technique to be used in surface mining;
10. the location and names of all streams, creeks, bodies of water and underground water resources within lands to be affected;
11. drainage on and away from the lands to be affected including directional flow of water, natural and artificial drainways and waterways, and streams or tributaries receiving the discharge;
12. the location of buildings and utility lines within lands to be affected;
13. the results of core drillings of consolidated materials in the overburden when required by the Department, provided that the Department may not require core drillings at the applicant's expense in excess of one core drill for every 25 acres of land to be affected;
14. a conservation and reclamation plan and map acceptable to the Department. The operator shall designate which parts of the lands to be affected are proposed to be reclaimed for forest, pasture, crop, horticultural, homesite, recreational, industrial or other uses including food, shelter and ground cover for wildlife and shall show the same by appropriate designation on a reclamation map. The plan shall:
  - (i) provide for timely compliance with all operator duties set forth in Section 6 of this Act by feasible and available means; and
  - (ii) provide for storage of all overburden and refuse.

Information respecting the minerals to be mined required by subparagraph (e)2 of this Section, respecting the estimated depth to which the mineral deposit will be mined required by subparagraph (e)7 of this Section, and respecting the results of core drillings required by subparagraph (e)13 of this Section shall be held confidential by the Department upon written request of the applicant.

(f) All information required in subsection (e) of this Section, with the exception of that information which is to be held in confidentiality by the Department shall be made available by the operator for public inspection at the county seat of each county containing land to be affected. The county board of each county containing lands to be affected may propose the use for which such lands within its county are to be reclaimed and such proposal shall be considered by the Department, provided that any such proposal must be consistent with all requirements of this Act.

Such plan shall be deposited with the county board no less than 60 days prior to any action on the plan by the Department. All actions by the county board pursuant to this Section must be taken within 45 days of receiving the plan.

If requested by a county board of a county to be affected under a proposed permit, a public hearing to be conducted by the Department shall be held in such county on the permit applicant's proposed reclamation plan. By rules and regulations the Department shall establish hearing dates which provide county boards reasonable time in which to have reviewed the proposed plans and the procedural rules for the calling and conducting of the public hearing. Such procedural rules shall include provisions for reasonable notice to all parties, including the applicant, and reasonable opportunity for all parties to respond by oral or written testimony, or both, to statements and objections made at the public hearing. County boards and the public shall present their recommendations at these hearings. A complete record of the hearings and all testimony shall be made by the Department and recorded stenographically.

(g) The Department shall approve a conservation and reclamation plan if the plan complies with this Act and completion of the plan will in fact achieve every duty of the operator required by this Act. The Department's approval of a plan shall be based upon the advice of technically trained foresters, agronomists, economists, engineers, planners and other relevant experts having experience in reclaiming surface-mined lands, and having scientific or technical knowledge based upon research into reclaiming and utilizing surface-mined lands. The Department shall consider all testimony presented at the public hearings as provided in subsection (f) of this Section. In cases where no public hearing is held on a proposed plan, the Department shall consider written testimony from county boards when submitted no later than 45 days following filing of the proposed plan with the county board. The Department shall immediately serve copies of such written testimony on the applicant and give the applicant a reasonable opportunity to respond by written testimony. The Department shall consider the short and long term impact of the proposed mining on vegetation, wildlife, fish, land use, land values, local tax base, the economy of the region and the State, employment opportunities, air pollution, water pollution, soil contamination, noise pollution and drainage. The Department may consider feasible alternative uses for which reclamation might prepare the land to be affected and may analyze the relative costs and effects of such alternatives. Whenever the Department does not approve the operator's plan, and whenever the plan approved by the Department does not conform to the views of the county board expressed in accordance with subsection (f) of this Section, the Department shall issue a statement of its reasons for its determination and shall make such statement public. The approved plan shall be filed by the applicant with the clerk of each county containing lands to be affected and such plan shall be available for public inspection at the office of the clerk until reclamation is completed and the bond is released in accordance with the provisions of the Act.

(h) Upon receipt of a bond or security, all fees due from the operator, and approval of the conservation and reclamation plan by the Department, the Department shall issue a permit to the applicant which shall entitle him to engage thereafter in surface mining on the land therein described until the tenth succeeding June 30, the period for which such permits are issued being hereafter referred to as the "permit period".

(i) The operator may transfer any existing permit to a second operator, after first notifying the Department of the intent to transfer said permit. The Department shall transfer any existing permit to a second party upon written notification from both parties and the posting of an adequate performance bond by the new permittee.

**(225 ILCS 715/6)**

**Sec. 6. Duties of operator.** Every operator to whom a permit is issued pursuant to the provisions of this Act may engage in surface mining upon the lands described in the permit upon the performance of and subject to the following requirements with respect to such lands:

(a) All land affected by surface mining except as otherwise provided in this Act shall be graded to a rolling topography traversable by machines necessary for maintenance in accordance with the planned use, with slopes having no more than 15% grade, except that in the following cases the grade shall not exceed 30%: (i) lands to be reclaimed to forest plantation, recreational or wildlife land uses, (ii) the outside slope of the box cut spoil, and (iii) the outside slopes of all overburden deposition areas. The final cut spoil and the side slopes of haulage road inclines can remain at a slope equal to the angle of repose of the material, provided the material can support vegetative cover. However, in no case shall the Department require grading to a lesser slope than the original grade of the overburden existing prior to mining.

(b) All runoff water shall be impounded, drained or treated so as to reduce soil erosion, damage to unmined lands, and pollution of streams and other waters. The operator shall construct earth dams, where lakes may be formed, in accordance with sound engineering practices if necessary to impound water, provided the formation of the lakes or ponds will not interfere with underground or other mining operations, other subsequent uses of the area approved by the Department, or damage adjoining property. Such water impoundments must be approved by the Department based on the expected ability of the lakes or ponds to support desirable uses such as water for livestock or wild life; and if to be used for fish life, shall have minimum depths in accordance with standards for fish stocking in the various areas of the State recommended by the Department.

(c) Acid forming materials present in the exposed face of the mined mineral seam or seams in the final cut shall be covered at all times with not less than 4 feet of water, or other materials which shall be placed with slopes having no more than 30% grade, capable of supporting plant and animal life. Final cuts or other depressed affected areas, no longer in use in mining operations, which accumulate toxic waters will not meet reclamation requirements.

(d) Slurry must be confined in depressed or mined areas bounded by levees or dams constructed from material capable of supporting acceptable vegetation and built in accordance with sound engineering practices. Such areas shall be screened with border plantings of tree species which by their seeding habits will encourage propagation of vegetation on these areas, and levees or dams built to confine slurry shall be established to adapted species of grasses. Gob not capable of supporting vegetation shall be covered to a minimum depth of 4 feet with soil or other material in accordance with sound soil conservation practices as prescribed by the Director. Such material must be capable of being vegetated and an acceptable cover shall be established. The above stipulated reclamation measures shall apply to all new refuse disposal areas or horizontal extensions of existing refuse disposal areas after the effective date of this Act.

(e) All abandoned haulage roads and all mine drainage ditches must be removed and graded, except where the Director determines that a road or ditch is consistent with and necessary to the conservation and reclamation plan.

(f) Unless the approved reclamation plan is inconsistent with vegetative cover, the soil shall be prepared and planted with trees, shrubs, grasses and legumes to provide suitable vegetative cover, in accordance with standards adopted by the Department.

(g) All requirements of the Environmental Protection Act, and of rules and regulations thereunder, as enforced by the Environmental Protection Agency, shall be complied with fully at all times during mining, reclamation, and after reclamation.

(h) Surface mining operations that remove and do not replace the lateral support shall not, unless mutually agreed upon by the operator and the adjacent property owner, approach property lines, established right-of-way lines of any public roads, streets or highways closer than a distance equal to 10 feet plus one and one-half times the depth of the excavation except where consolidated material or materials of sufficient hardness or ability to resist weathering and to inhibit erosion or sloughing exists in the highwall, the distance from the property line or any established right-of-way line shall not, unless mutually agreed, be closer than a distance equal to 10 feet plus one and one-half times the depth from the natural ground surface to the top of the consolidated material or materials.

(i) The operator shall annually submit to the Department and to the affected county a map in a form approved by the Department showing the location of the pit or pits by section, township, range and county, with such other description as will identify the land which the operator has affected by surface mining during such fiscal year and has completed mining operations thereon, with a legend upon such map showing the number of acres of affected land.

(j) When the Director determines that the land to be affected is (1) capable of being reclaimed for row-crop agricultural purposes and suitable for row-crop agricultural purposes based on United States Soil Conservation Service soil survey classifications of the affected land prior to mining, and (2) when the Director determines that the optimum future use of the land affected is for row-crop agricultural purposes, the affected land shall be graded to the approximate original grade of the land provided that the final cut and submerged roadways may remain if the Department determines that such final cut or roadways could form a water impoundment capable of supporting desirable uses such as water for livestock or wild life; and if to be used for fish life, shall have minimum depths in accordance with standards for fish stocking as recommended by the Department, and provided further that the box cut spoil shall be graded in accordance with subparagraph (a) of Section 6.

On all affected lands to be graded to the approximate original grade under this subsection (j), all or part of the darkened surface soil, as defined in this Act, shall be segregated during the stripping process and replaced as a final cover as a last step in the required grading. When available in such depth, at least 18 inches of the darkened surface soil shall be segregated and replaced. When less than 18 inches of darkened surface soil exists all such lesser amounts shall be segregated and replaced. In no case under this subsection (j) shall less than the top 8 inches of surface soil, darkened or not, be segregated and replaced. This segregation and replacement requirement may be altered

by the Department only if it is determined upon the advice of competent soil scientists that other material available in the cast overburden would be suitable in meeting the reclamation requirements. Below the darkened surface soil the replaced material shall be suitable as an agricultural root medium. The Department shall determine by rules and regulations what constitutes a suitable agricultural root medium by composition and depth. On all lands to be reclaimed under this subsection (j), the operator shall not be required to create a soil condition better than that which existed prior to surface mining.

(k) All reclamation provided for hereunder shall be carried to completion by the operator prior to the expiration of 3 years after active use, as determined by the Department, except that no other reclamation of any kind shall be required to be made within depressed haulage roads or final cuts or any other area where pools or lakes, capable of supporting aquatic life, may be formed by rainfall or drainage runoff from adjoining land or where the Director determines that a road, dry pit bottom or ditch is consistent with and necessary to the conservation and reclamation plan. All mined areas which in the reclamation plan call for vegetation shall be covered with whatever top soils or other materials from the cast overburden that will support acceptable plant growth in accordance with standards adopted by the Department. The Department shall have authority to require that darkened surface soil be segregated from other overburden in the stripping process so as to accomplish the requirements of this subparagraph. When extension of the reclamation period is necessary to allow continued mining operation and to accomplish acceptable reclamation, such extension shall be made at the discretion of the Department, however, the Department shall not deny a reasonable extension under any of the subsections of this Section 6 when the operator shows that acts of God, strikes, inability to receive ordered equipment or extended periods of unseasonable and not to be expected weather have made completion within time limits impossible; or, the Department shall declare forfeiture of the surety bond or security on such land not satisfactorily reclaimed or the Director shall provide that the operator cover such areas with material capable of being vegetated in accordance with vegetative standards adopted by the Department within 1 year. If further extension of the reclamation period is necessary to accomplish acceptable reclamation such extension shall be made at the discretion of the Department or the Department shall declare forfeiture of the surety bond or security on such land not satisfactorily reclaimed.

(l) The reclamation requirements in this Section do not apply to affected land used for a landfill if the landfill is approved by the Environmental Protection Agency. The Environmental Protection Agency may regulate the amount of land to be used for that purpose and may establish a time schedule for the orderly and timely completion of the landfill. Any affected land designated for landfill and not used for that purpose within 5 years after such a designation is subject to the reclamation provisions of this Section.

(m) The conservation and reclamation plan shall be completely performed on time.

(n) High walls shall be reshaped to a slope of two-to-one or 50% to the anticipated water level or dry pit bottom unless otherwise excepted by the Director.

(o) The provisions of subsections (j) and (n) of this Section do not apply to the aggregate mining industry.



**(225 ILCS 715/6.5)**

**Sec. 6.5. Blasting operations; regulation.**

(a) Blasting operations at permitted and unpermitted sites operated by the aggregate mining industry shall be conducted only in accordance with existing State and federal law and rules promulgated by the Department with the advice of the aggregate mining industry. These rules shall include provisions to require all of the following:

(1) The maintenance of blasting records for a period of at least 3 years and that the records be made available for Department inspection and copying. However, these on-site blasting records, as they relate to detonation, are deemed to be proprietary information.

(2) The control of blasting operations so as to prevent injury to persons and damage to public and private property outside the blasting site.

(3) That all blasting operations be conducted or supervised by trained and competent persons as licensed by the Department.

(4) That blasting operations be subject to air blast or ground vibration monitoring, or both, as necessary to limit property damage and protect public safety.

(5) The issuance of notices of violation in the event of a violation of the Department's blasting rules.

(6) The issuance of orders requiring the cessation of blasting operations in the event of a violation of the Department's blasting rules that may cause injury to persons or damage to public and private property outside the blasting site.

(7) The assessment of civil penalties, and the initiation of formal administrative hearings to resolve violations of the Department's blasting rules.

(b) The Department shall promulgate rules requiring the training, examination, and licensing of persons engaging in or responsible for the blasting operation or use of explosives in aggregate mining operations. The rules shall include an administrative enforcement process designed to correct infractions of the terms of the blasting licenses issued by the Department. These rules may also include a fee schedule designed to defray the costs associated with the Department's examination and licensing of persons engaging in or responsible for the blasting operation or use of explosives in aggregate mining operations.

(c) The rules implementing the requirements of this Section shall become effective one year after the rules are adopted by the Department.

(d) The regulation of blasting operations at aggregate mining operations is an exclusive power and function of the State. A home rule unit may not regulate blasting operations at aggregate mining operations. This Section is a denial and limitation of home rule powers and functions under subsection (h) of Section 6 of Article VII of the Illinois Constitution.

**(225 ILCS 715/7)**

**Sec. 7. Entry upon lands for inspection.** The Department, or its accredited representatives, may enter upon the lands of the operator at all reasonable times for the purpose of inspection, to determine whether the provisions of this Act have been complied with.

**(225 ILCS 715/8)**

**Sec. 8. Bond of operator; amount; sufficiency of surety; violations; compliance.** Any bond herein provided to be filed with the Department by the operator shall be in such form as the Director prescribes, payable to the People of the State of Illinois, conditioned that the operator shall faithfully perform all requirements of this Act and comply with all rules of the Department made in accordance with the provisions of this Act. Such bond shall be signed by the operator as principal, and by a good and sufficient corporate surety, licensed to do business in Illinois, as surety. The penalty of such bond shall be an amount between \$600 and \$5,000 per acre as determined by the Director for lands to be affected by surface mining, including slurry and gob disposal areas. Areas used for the disposal of slurry and gob shall continue under bond so long as they are in active use. In lieu of such bonds, the operator may deposit any combination of cash, certificates of deposits, government securities, or irrevocable letters of credit with the Department in an amount equal to that of the required surety bond on conditions as prescribed in this Section. The penalty of the bond or amount of other security shall be increased or reduced from time to time as provided in this Act. Such bond or security shall remain in effect until the affected lands have been reclaimed, approved and released by the Department except that when the Department determines that grading and covering with materials capable of supporting vegetation in accordance with the plan has been satisfactorily completed, the Department shall release the bond or security except the amount of \$100 per acre which shall be retained by the Department until the reclamation according to Section 6 of this Act has been completed. Where an anticipated water impoundment has been approved by the Department in the reclamation plan, and the Department determines the impoundment will be satisfactorily completed upon completion of the operation, the bond covering such anticipated water impoundment area shall be released.

A bond filed as above prescribed shall not be cancelled by the surety except after not less than 90 days' notice to the Department.

If the license to do business in Illinois of any surety upon a bond filed with the Department pursuant to this Act shall be suspended or revoked, the operator, within 30 days after receiving notice thereof from the Department, shall substitute for such surety a good and sufficient corporate surety licensed to do business in Illinois. Upon failure of the operator to make substitution of surety as herein provided, the Department shall have the right to suspend the permit of the operator until such substitution has been made.

The Department shall give written notice to the operator of any violation of this Act or non-compliance with any of the rules and regulations promulgated by the Department hereunder and if corrective measures, approved by the Department, are not commenced within 45 days, the Department may proceed as provided in Section 11 of this Act to request forfeiture of the bond or security. The forfeiture shall be the amount of bond or security in effect at the time of default for each acre or portion thereof with respect to which the operator has defaulted. Such forfeiture shall fully satisfy all obligations of the operator to reclaim the affected land under the provisions of this Act.

The Department shall have the power to reclaim, in keeping with the provisions of this Act, any affected land with respect to which a bond has been forfeited.

Whenever an operator shall have completed all requirements under the provisions of this Act as to any affected land, he shall notify the Department thereof. If the Department determines that the operator has completed reclamation requirements and refuse disposal requirements and

has achieved results appropriate to the use for which the area was reclaimed, the Department shall release the operator from further obligations regarding such affected land and the penalty of the bond shall be reduced proportionately.

Bonding aggregate mining operations under permit by the State is an exclusive power and function of the State. A home rule unit may not require bonding of aggregate mining operations under permit by the State. This provision is a denial and limitation of home rule powers and functions under subsection (h) of Section 6 of Article VII of the Illinois Constitution of 1970.

### **(225 ILCS 715/9)**

**Sec. 9. Fees and forfeitures; deposit.** All fees and penalties collected under the provisions of this Act shall be deposited into the Aggregate Operations Regulatory Fund.

All forfeitures collected under the provisions of this Act shall be deposited in the reclamation fund to be used for the purposes for which the penal bond was issued, that is, to assure that the mining company reclaims the land of the mining operation according to the permit it received.

### **(225 ILCS 715/10)**

#### **Sec. 10. Administration.**

(a) In addition to the duties and powers of the Department prescribed by the Civil Administrative Code of Illinois, it shall have full power and authority to carry out and administer the provisions of this Act. These powers shall include, but are not limited to, the imposition of the following fees to enable the Department to carry out the requirements of this Act:

(1) A registration fee of \$475 assessed on July 1 of each calendar year that is due from each operator engaged in and controlling a permitted or unpermitted surface mining operation. The registration fee shall be accompanied by a registration form, provided by the Department, which shall indicate the mailing address and telephone number of the operator, the location of all mining operations controlled by the operator, the minerals being mined, and other information deemed necessary by the Department. A \$475 registration fee is the maximum registration fee due from a single operator each calendar year regardless of the number of sites under the operator's control.

(2) An additional fee of \$175 assessed on July 1 of each calendar year for each site that was actively being surfaced mined during the preceding 12 months that is due from the operator engaged in and controlling the permitted or unpermitted surface mining operations.

(3) An additional fee of \$375 assessed on July 1 of each calendar year that is due from each operator engaged in and controlling a permitted or unpermitted surface mining operation where blasting operations occurred during the preceding 12 months.

(b) Fees shall be assessed by the Department commencing July 1, 1995 for every surface mine operator, active mining site, and active aggregate blasting operation of record as of that date and on July 1 of each year thereafter. The fees assessed under this Section are in addition to any other fees required by law.

(c) All fees assessed under this Section shall be submitted to the Department no later than 30 days from the date listed on the Department's annual fee assessment letter sent to the surface mine operator. If the operator is delinquent in the payment of the fees assessed under this Section, no further permits or certifications shall be issued to the operator until the delinquent fees have been paid. Moreover, if the operator is delinquent for more than 60 days in the payment of fees assessed under this Section, the Department shall take the action, in accordance with Section 13 of this Act, necessary to enjoin further surface mining and aggregate blasting operations until all delinquent fees are paid.

#### **(225 ILCS 715/11)**

**Sec. 11. Bond forfeiture proceedings-Pre-requisites.** The Attorney General, upon request of the Department, shall institute proceedings to have the bond of the operator forfeited for violation by the operator of any of the provisions of this Act or for non-compliance with any lawful rule or regulation promulgated by the Department thereunder. Before making such request of the Attorney General, the Department shall notify the operator in writing of the alleged violation or non-compliance and shall afford the operator the right to appear before the Department at a hearing to be held not less than 30 days after the receipt of such notice by the operator. At the hearing the operator may present for the consideration of the Department statements, documents and other information with respect to the alleged violation. After the conclusion of the hearing, the Department shall either withdraw the notice of violation or shall request the Attorney General to institute proceedings to have the bond of the operator forfeited as to the land involved.

Any operator against whom forfeiture proceedings have been required should not be issued a permit for further surface mining in Illinois except if he provides additional assurances satisfactory to the Director that such proceedings shall not again become necessary.

#### **(225 ILCS 715/12)**

##### **Sec. 12. Rules.**

(a) The Department may adopt and promulgate reasonable rules respecting the administration of this Act, and in conformity therewith.

(b) Rules adopted by the Department shall not apply retroactively. Any operator shall have the right to proceed with operations under this Act until such rules are adopted and no such rules shall be made applicable to any operations prior to the effective date thereof.

(c) In addition to the provisions of this Section, and to the extent consistent with this Section, the provisions of the Illinois Administrative Procedure Act apply to the adoption of rules under this Act.

(d) Any act authorized to be done by the Director may be performed by the Assistant Director or any employee of the Department when designated by the Director.

#### **(225 ILCS 715/13)**

**Sec. 13. Penalties- Injunction.** Any person required by this Act to have a permit who engages in surface mining without previously securing a permit to do so as prescribed by this Act, is guilty of a business offense and shall be fined not less than \$50 nor more than \$1,000. Each day of operation without the permit required by this Act shall be deemed a separate violation.

Authorized representatives of the Department shall by injunctive procedures close down at once any operator found to be surface mining without a permit or in violation of this Act. No liability whatsoever shall accrue to the Department or its authorized representative in closing down any operator pursuant to this Section.

**(225 ILCS 715/13a)**

**Sec. 13a. Review by court.** All final administrative decisions of the Department hereunder shall be subject to judicial review pursuant to the provisions of the Administrative Review Law, and all amendments and modifications thereof, and the rules adopted pursuant thereto. The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure

**(225 ILCS 715/14)**

**Sec. 14. Transition provision.** All permits, bonds, plans, duties and requirements pursuant to "The Open Cut Land Reclamation Act", approved August 10, 1961, as amended, and "The Surface-Mined Land Reclamation Act", approved April 6, 1967, as amended, shall remain in full force and effect with respect to mining commenced prior to the effective date of this Act.

**(225 ILCS 715/15)**

**Sec. 15. (Repealed).**

**(225 ILCS 715/16)**

**Sec. 16. Severability clause.** If any Section, subdivision, clause, sentence or paragraph in this Act shall be held to be unconstitutional, the unconstitutionality thereof shall not affect the remaining parts of this Act.

**(225 ILCS 715/17)**

**Sec. 17.**

(a) The Director and the Land Reclamation Division within the Department of Natural Resources shall have the power and duty to act as the regulatory authority for the State of Illinois, under the Surface Mining Control and Reclamation Act of 1977, P.L. 95-87, (hereinafter sometimes referred to as the "Federal Law") Section 502, and, to the extent required by P.L. 95-87, Section 510 (d), with respect to the initial regulatory program, and for purposes of formal State program development under Section 503.

(b) The regulatory authority is authorized to: (i) hold hearings, (ii) undertake inspections, (iii) file inspection reports, (iv) require compliance with and enforce initial performance standards contained in Section 502(c) of the Federal Law including, as deemed appropriate, the conditioning of new and existing permits with lawfully imposed requirements no more stringent than Federal Law and regulations; (v) make determinations under Section 510(d) and otherwise to comply with and administer the initial regulatory program, (vi) adopt such rules and regulations as are necessary or appropriate to the purposes of this Section; and (vii) apply for, accept, receive, receipt for and use for and in behalf of the State such moneys or property as are given or granted by the Federal Government under the Federal Law or any other federal law, or from any other lawful public or private source, for the purposes of developing, administering or enforcing the Federal Law or this Act, and otherwise for mined land reclamation purposes, provided that such funds received shall be deposited with the State Treasurer and held and disbursed by him in accordance with "An Act in relation to the receipt,

custody, and disbursement of money allotted by the United States of America or any agency thereof for use in this State", approved July 3, 1939, as amended, and provided that such moneys or property shall be used only for the purposes for which they are contributed. Adoption of rules and regulations authorized by this Section shall be pursuant to Section 5-35 of the Illinois Administrative Procedure Act.

(c) No person shall open, develop or operate a surface coal mining operation (including an underground operation) as defined in P.L. 95-87, Section 701(28), without a permit from the regulatory authority. The Director may provide for a reasonable implementation schedule for this permit requirement, consistent with the administration of the Federal Law.

(d) Standards used and conditions imposed in the administration and enforcement of this Section shall be no more stringent than required by the Federal Law and federal regulations thereunder. Nothing in this Section shall be construed to require a determination or finding pursuant to subsection 510(d) of the Federal Law, as to any permit issued prior to August 3, 1977, or to any revisions or renewals thereof, or to any existing surface mining operations for which a permit was issued (or, in the case of underground mines, for which a notice of mine opening was filed pursuant to Section 3.06 of the Coal Mining Act), prior to August 3, 1977.

(e) If an application for a permit discloses, or if the regulatory authority or the Illinois Department of Agriculture have reason to believe that a surface coal mining operation subject to determination under Section 510(d) of the Federal Law contains prime farm land, as defined by subsection 701(20) of the Federal Law, then, in addition to other requirements of the Federal Law, the determination of the regulatory authority under Section 510(d) of the Federal Law respecting whether a permit shall be granted shall be made only after written consideration of any comments which may be made by the Interagency Committee on Surface Mining Control and Reclamation.

- (f) (1) The Interagency Committee on Surface Mining Conservation and Reclamation ("the Interagency Committee") shall consist of the Director (or Division head) of each of the following State agencies: (1) the Department of Agriculture, (2) the Environmental Protection Agency, (3) the Division of Water Resources in the Department of Natural Resources, (4) the Department of Natural Resources, and (5) any other State agency designated by the regulatory authority as having a programmatic role in the review or regulation of surface coal mining operations whose comments are expected by the regulatory authority to be relevant and of material benefit to the review process.
- (2) The Interagency Committee shall review and comment on permit applications concerning protection of the hydrologic system, water pollution control, reclamation plans and soil handling techniques, dams and impoundments, and postmining land use regarding mining operations subject to prime farm land determinations under Section 510(d)(1) pursuant to the Federal Law.
- (3) Upon receipt of a complete application for a permit, the regulatory authority shall provide each agency which is a member of the Interagency Committee with a copy thereof. Each Committee member shall prepare its proposed response and comments to the application within 45 days, and shall forward same to the

regulatory authority. Comments shall be based upon factual, legal, and technical considerations, and such considerations shall be stated in the comment. The comments of the Interagency Committee shall be filed in the office of the County Clerk of each County in which surface mining subject to the application is proposed to take place. Whenever a County Board may request a hearing on a reclamation plan pursuant to Section 5(f) of the Act, and the application is also made subject to Interagency Committee review and comment by this Section 17, then, notwithstanding time limits on County Board action pursuant to Section 5(f) and 5(g) of this Act, the County Board shall have 30 days from the date of filing of the Interagency Comments with the County Clerk in which either to request a public hearing under Section 5(f) and Section 17, or, alternatively to file written comments, recommendations and affidavits concerning the reclamation plan and the other subjects of Interagency Committee review under this Section 17. In addition to other relevant information, the regulatory authority shall consider all comments, recommendations, testimony and evidence presented at the public hearing or by written submittal of a County Board, prior to and in connection with its final action. The regulatory authority may consult with the applicant, the relevant County Board, appropriate Interagency Committee members, and may seek qualified advice of other technically trained experts, concerning standards and conditions of the permit necessary or appropriate to comply with this Act and regulations. The applicant may furnish supplemental information in support or modification of its application, provided that interested parties are given a reasonable opportunity to comment thereon. Final action on the application shall occur within 120 days of initial receipt of a complete application, unless time for such action is waived by the applicant, or unless, as to operations subject to the requirements of Section 4 of the Act, the time for final action is otherwise tolled pursuant to the Act or regulations thereunder. If no final action occurs within the time in which final action is required, the applicant, upon written notice to the regulatory authority, may deem the application denied, and such denial shall constitute final action. The regulatory authority shall set forth the factual, technical and legal basis for its final action as part of the record. Review of any such final action shall be in accordance with the Administrative Review Law, as amended.

(g) Violation of the Act (including this Section), or of the terms of any permit, or of any regulation adopted under this Section or otherwise under the Act shall, in addition to other penalties provided by the Act, be punishable, after notice of the violation alleged and opportunity for a hearing, by modification, suspension or revocation of a permit by the Director. In case the Director receives information of an emergency posing a serious immediate threat of significant harm to life, public health or safety, property or the environment, permit suspension may be immediate, subject to a prompt hearing and decision. The regulatory authority is authorized to undertake, cooperate with, and participate in enforcement activity under the Federal Law, as deemed appropriate to the purposes of this Act and the Federal Law.

(h) The regulatory authority may delegate responsibilities, other than final action on permits, to other State agencies, with the consent of such agencies, and the regulatory authority may contract with any State officer or agency, to administer such responsibilities hereunder as may be deemed necessary and appropriate to provide for effective administration of this Section taking into account the need to have efficient

administration hereof, without unreasonable or unnecessary cost or duplication of effort, and taking into account the need to deliver fair and effective governmental service to the interested public.

(i) The Director shall implement and enforce regulations to assure that no person employed by the regulatory authority performing any function or duty under this Section shall have a direct or indirect financial interest in underground or surface coal mining operations, in violation of the Federal Law.

(j) Surface coal mining operations subject to the permit requirement of Section 4 of this Act shall comply with all requirements of this Act, including this Section. Nothing in this Section shall be construed to limit the authority of a County board under Section 5(f) of the Act. Surface coal mining operations subject to this Section, for which no permit is required under Section 4 of this Act, shall be subject to Sections 2, 3, 5a, 8, 9, 10, 11, 13, 13(a), 15 and 16 of this Act, as well as this Section. The regulatory authority shall administer the permit requirements of Section 4 and this Act jointly, so as to require only one permit of an operator of a surface mining operation. In case of a conflict between permit requirements or regulations under other Sections of this Act and this Section, this Section and standards, conditions, rules and regulations adopted or imposed pursuant to this Section, shall control; no standard or condition imposed pursuant to this Section shall be less stringent than imposed by other Sections of this Act, or regulations thereunder.

(k) The Interagency Committee shall hold meetings for the purpose of reviewing other regulatory and permit requirements imposed by state and federal law upon owners and operators of surface coal mining operations, with a view to, and, to the extent lawful and appropriate, for the purpose of the joint consideration and determination of NPDES and other permit applications required of owners and operators of surface coal mining operations, to make as effective as possible a unified permit system requiring a single application and final determination of the State agencies involved.

(l) The enactment hereof shall not be construed to limit the effect of any other remedy or other requirement of State or Federal laws, except as expressly provided herein.